



Docket No. 4126-4012

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant(s): Rinehart et al.

Group Art Unit: 1614

Serial No.: 10/693,174

Examiner: Cook, Rebecca

Filed: October 23, 2003

For: COMPOSITIONS AND METHODS COMPRISING LONG-CHAIN, STRAIGHT-CHAIN 2-AMINO-3-HYDROXYALKANES

**PETITION FOR PRIORITY CLAIM UNDER 37 C.F.R. § 1.78(a)(6)**

Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

To the Petitions Office:

Applicants hereby petition for priority claim under 37 C.F.R. § 1.78(a)(6) to add a priority claim to US provisional applications 60/043,326 (filed April 15, 1997) and 60/043,599 (filed April 15, 1997).

The status of the application is under final rejection. The final rejection for the application was issued on August 19, 2005. There are no pending prior art rejections. A response to the final rejection is being filed concurrently. Applicants believe the response will be sufficient to remove all rejections. In performing a review of the application in anticipation of allowance, Applicants found that the priority claim is in need of correction.

According to the most recent Filing Receipt and the electronic PAIR record, this application is a continuation of 09/386,724 (filed August 31, 1999, issued as US Pat. 6,800,661), which is a CIP of 09/058,456 (filed April 10, 1998, issued as US Pat. 6,107,520).

The “grandparent” application 09/058,456 claims priority from provisional applications 60/043,326 (filed April 15, 1997) and 60/043,599 (filed April 15, 1997).

The “parent” application 09/386,724 inadvertently omitted the priority claim to the two provisional applications at the time of filing, but was amended to include reference to the two provisional applications during the course of its prosecution. The amendment to include reference to the two provisional applications was entered by the USPTO. According to the rules in place for the parent, a petition was not required to amend the priority claim.

Similarly to the "parent" application 09/386,724, the instant application (submitted as a photocopy of the parent) inadvertently omitted reference to the two provisional applications at the time of filing.

Applicants have previously submitted a Request for Corrected Official Filing Receipt in order to indicate that 09/058,456 claims priority from provisional applications 60/043,326 and 60/043,599. In response, the USPTO Office of Initial Patent Examination indicated that to change the benefit claim, the first sentence of the specification must be amended in order to include reference to the priority claim (copy attached). In the response to the final rejection, an amendment to the specification is being submitted in order to include reference to the priority claim.

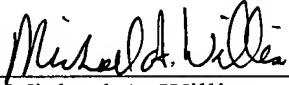
The USPTO Office of Initial Examination did not check the box to indicate that a petition would be required to include reference to provisional applications 60/043,326 and 60/043,599. However, in the event that a petition is required, Applicants submit this petition. The entire delay between the date the claim was due under paragraph (a)(5)(ii) of this section and the date the claim was filed was unintentional.

The Commissioner is hereby authorized to charge any fees which may be required by this paper, or credit any overpayment to Deposit Account No. 13-4500. Order No. 4126-4012.

Respectfully submitted,  
MORGAN & FINNEGAN, L.L.P.

Dated: November 18, 2005

By: \_\_\_\_\_

  
Kenneth H. Sonnenfeld / Michael A. Willis  
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APPLICATION NUMBER	FILING OR 371(c) DATE	FIRST NAMED APPLICANT	ATTY, DOCKET NO./TITLE
10/693,174	10/23/2003	Kenneth L. Rinehart	4126-4012

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\*OC000000012382639\*

Date Mailed: 04/16/2004

**CONFIRMATION NO. 2597**

**RESPONSE TO REQUEST FOR CORRECTED FILING RECEIPT**

**Domestic Continuity and Foreign Priority**

In response to your request for a corrected Filing Receipt, the Office is unable to comply with the request because:

- The priority or continuity claim has not been entered because it was not filed during the required time period. Applicant may wish to consider filing a petition to accept an unintentionally delayed claim for priority. See 37 CFR 1.55 or 1.78.
- Continuity claimed under 35 U.S.C. § 120 cannot be added to the Filing Receipt without the applicant supplying the relationship (continuation, divisional, or continuation-in-part) in an Application Data Sheet or amendment to the first page of the specification.
- A claim for priority cannot be made based on an application filed after the application making the claim.
- Domestic benefit and foreign priority claims will not be captured in a provisional application. A provisional application is not entitled to a right of priority or to the benefit of an earlier filing date of any other application. See 35 U.S.C. § 111(b)(7) and 37 CFR 1.53(c)(4).
- A domestic continuity claim cannot be made to a foreign application and the filing receipt will only list the foreign country, application number, and filing date.
- Foreign priority will appear on the Filing Receipt in the following order: **Country, Application number, Filing date.**
- This application is the result of a conversion from a provisional application. Priority based on such application cannot be made since it no longer exists as a provisional application.
- The application(s) to which priority is claimed were filed over a year prior to the filing date of this application. Therefore, the referenced application(s) cannot be claimed as domestic or foreign priority.

To change the benefit claim of a U.S. prior-filed application, applicant must amend the first sentence of the specification (if the benefit claim is referenced in the specification), or provide a supplemental application data sheet (ADS) (if the benefit claim was submitted in an ADS), with the desired benefit claim. Note that once a benefit claim is deleted, applicant will not be able to claim such prior-filed application again, if the above-identified application was filed on or after November 29, 2000.

To change a foreign priority claim, applicant must submit a supplemental oath or declaration (if the priority claim is referenced in the oath or declaration), or a supplemental application data sheet (ADS) (if the priority claim was submitted in an ADS), with the desired priority claim. If a supplemental ADS is submitted, any deletions should be shown with strikeouts. Note that once a priority claim is deleted, applicant will not be able to claim such foreign application again, if the above-identified application was filed on or after November 29, 2000.

*J-San*  
Customer Service Center  
Initial Patent Examination Division (703) 308-1202

## PART 1 - ATTORNEY/APPLICANT COPY

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MURKIN & FINNEGAN LLP